

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTON

WRIT PETITION NO.1177 OF 2007

Suchita Khopkar .. Petitioner.

Versus

Union of India, Directorate
of Enforcement & Anr. .. Respondents.

Mr.V. Chandrashekhar for the petitioner.

Mr.P.S. Jetly with Mr.S.D. Bhosale for the
respondents.

CORAM : F.I. REBELLO &
J.P. DEVADHAR, JJ.

DATED : 26TH JULY, 2007.

P.C. :

1. Admittedly, a show cause notice was addressed to the petitioner on 16th May, 2002. The show cause notice was returned unanswered. In para 5 of the petition, petitioner has averred that he had closed down the business. Therefore, a finding of fact will have to be recorded as to whether when the show cause notice was served the petitioners business was running and secondly reason for return of the said show cause notice. The notice was addressed at the address of the petitioner and in spite of that the notice was returned, that prima facie cannot be held against the revenue.

2. Considering the above, at the highest considering the contention of the petitioner that the order was passed without hearing the petitioner and to enable him to get an opportunity, we are inclined to set aside the order and notice of demand. At the hearing, it will be open to the petitioner to raise all contentions including that the show cause notice was not served upon him. It will be open for the respondents to record a finding of fact on the contentions as urged by the petitioner.

3. In the light of above, the impugned order dated 17th May, 2004 is quashed and set aside as also the notice of demand dated 20th February, 2007.

4. On behalf of the petitioner, learned counsel states that the address for service would be the address as shown in the petition and if a notice is addressed by the respondents at that address, the petitioner will accept the notice. Considering the statement, if a notice is addressed at the address shown in the petition, that will be good notice insofar as respondents are concerned.

5. On notice being served, the petitioner to appear before respondent No.2 who after hearing the

petitioner will pass appropriate order according to law not later than eight weeks from the date of first appearance.

6. Rule is made absolute accordingly with no order as to costs.

(F.I. REBELLO, J.)

(J.P. DEVADHAR, J.)